

to a method of treating diabetes by administration of a single-chain insulin analog. This requirement for restriction is respectfully traversed.

### **ELECTION OF CLAIMS**

The Examiner has set forth a restriction requirement with regard to claims 1-25. The grouping of the claims is set forth as follows:

<u>GROUP</u>	<u>CLAIMS</u>	<u>CLASSIFICATION</u>
I	1-17	Class 435, Subclass 69.1
II	18-22 and 24-25	Class 514, Subclass 44
III	23	Class 514, Subclass 3

In order to be responsive to the Examiner's restriction requirement, applicants have elected claims 1-17 for initial examination. However, it is respectfully submitted that the restriction requirement is improper and no serious burden is presented to the Examiner to consider all of the claims in a single application.

In addition to the above reasons to consider all of the claims in a single application, as set forth in Section 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for proper requirement for restriction:

1. The inventions must be independent or distinct as claimed; and

2. There must be a serious burden on the Examiner if the restriction is not required.

Applicants respectfully submit that a serious burden has not been placed on the Examiner to consider all of the claims in a single application. A review of the subject matter set forth in claims 1-25 would include a review of both class 435 and class 514. Thus, a different field of search really does not exist with regard to the claims of the present application.

However, in order to comply with the Examiner's requirement, the Applications provisionally elect to prosecute claims 1-17 in the present application. If the Examiner does persist in his restriction requirement, Applicants reserve the right to file divisional applications directed to claims 18-25 at a later date if they so desire.

The Examiner has made a further requirement for an election of species as set forth in paragraph 4 of the Office Action letter. This requirement for an election of species is respectfully traversed.

Because of the very close inter-relationship between the various species of the present application, it is believed that all of the species are properly examinable in a single application. However, in order to comply with the Examiner's requirement, the Applicants elect to prosecute the species of claim 4 in the present application. In this connection, the molecular embodiment of "X" which is further elected is Gly-Gly-Gly-Pro-Gly-Lys-Arg.

Accordingly, reconsideration of the restriction requirement and

requirement for an election of species, and action of all the claims of the present application are respectfully requested.

Favorable action on the present application is earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Joseph A. Kolasch  
Reg. No. 22,463

JAK/clb

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000